HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 135 of 2003 (MB)

Master Kuldeep Mani Bhaskar .... Petitioner

Vs.

Union of India & others ..... Respondents.

Sri S.K. Mandal, Advocate for the petitioner
Sri Paresh Tripathi for the respondent.

Date: 18.8.2004

Hon. Rajesh Tandon J.

Heard the learned counsel for the parties at length.

By the present writ petition the petitioner has prayed for a writ of mandamus directing the respondents to permit him to appear in the Class 10th examination for the year 2003 started from 4th March 2003.

The petitioner has submitted that he is the student of Class 10th A in the School of respondent no.4. For the session 2003 the petitioner has been given admission on the condition that he will not appear in the compartment examination. He was given admission on 22.7.02 after two months from the date of starting sessions 2003. During the session the petitioner fell ill and he applied for medical leave from 5.9.2002 to 10.9.02, 25.09.02 to 28.9.02 and the same has been accepted by the Principal. On 6.2.203 the respondent no.5 has informed the mother of the petitioner that the petitioner is getting less attendance below the minimum standard of 75%. The petitioner

has been informed that his attendance has not been condoned by All India Senior Secondary Board Examination 2003. Hence the petitioner has filed the present writ petition.

On 3.3.2003 notices were issued to the respondents and petitioner was permitted provisionally to appear in the examination subject to the final decision of the writ petition. In the mean time examination was completed and on 28.7.2003, the Court has modified the order and directed the respondents to declare the result of the petitioner of 10th Class and to admit him in 11th standard provisionally.

The counsel for the petitioner has stated that he has been declared passed in 10th standard and has taken admission in Polytechnic. Sri Paresh Tripathi appearing on behalf of C.B.S.E. has field counter affidavit and it has been stated that the attendance of the petitioner was short and as such the petitioner was not permitted to appear in the examination. The writ petition shows that the petitioner was prevented on account of his illness and he was also given admission after two months from the date of starting of session. Thus it was not feasible for him to complete his attendance. The circumstances were not within the reach of the petitioner so as to complete his attendance.

In view of the aforesaid fact and circumstances since the petitioner has already been declared passed and he has joined Polytechnic. Further in the interest of justice the petitioner having been appeared in the examination and has been selected in the Polytechnic, there is no occasion not to permit the petitioner to prosecute his further study. The writ petition is

therefore, allowed. No order as to costs.

(Rajesh Tandon J.)

18.8.2004
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